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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,089	04/10/2001	Jonathan Doctor	PRK-002 (6408/7)	8871
24574	7590	06/21/2005	EXAMINER	
JEFFER, MANGELS, BUTLER & MARMARO, LLP 1900 AVENUE OF THE STARS, 7TH FLOOR LOS ANGELES, CA 90067			FRENEL, VANEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/833,089	<b>Applicant(s)</b> DOCTOR ET AL.	
	<b>Examiner</b> Vanel Frenel	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07232003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Notice to Applicant

1. This communication is in response to the Application filed on 04/10/01. Claims 1-16 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (6,347,329) in view of Tarter et al (5,550,734).

(A) As per claim 1, Evans discloses in connection with an encounter between a health care practitioner and a patient, comprising: a portable device for use at a point of patient care by the health care practitioner, the portable device (See Evans, Col.13, lines 1-34) comprising: b) an input mechanism for receiving input from a user at least during the encounter and at the point of care (See Evans, Col.6, lines 15-41); and output mechanism for providing output to the user at least during the encounter and at the point of care (See Evans, Col.6, lines 42-67 to Col.7, line 17).

Evans does not explicitly disclose a system for facilitating compliance with rules and procedures required for payment approval from a health care payer and memory for storing information that facilitates the health care practitioner's compliance with the rules

and procedures required for payment approval from the health care payer in connection with the encounter.

However, these features are known in the art, as evidenced by Tarter. In particular, Tarter teaches a system for facilitating compliance with rules and procedures required for payment approval from a health care payer (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9); and a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for payment approval from the health care payer in connection with the encounter (See Tarter, Col.37, lines 26-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Tarter within the system of Evans with the motivation of providing CHARMS to keep track of payments received, and provides the means for the System Operator to aggressively pursue payment when it is not received in a timely manner. Once payment is received, CHARMS reconciles the claims and payments (See Tarter, Col. 10, lines 63-67).

(B) As per claim 2, Tarter discloses the system wherein the portable device comprises a processor, wherein the information stored in the memory includes instructions for execution by the processor, and wherein the information also includes data that represents the rules and procedures required for payment approval from at least one healthcare payer in connection with the encounter (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9).

(C) As per claim 3, Evans discloses the system wherein the portable device enables the user to communicate information to the device that specifies at least one diagnosis for the patient (See Evans, Col.5, lines 34-60).

(D) As per claim 4, Evans discloses the system wherein the portable device enables the user to communicate information to the device that specifies at least one healthcare directive for the patient (See Evans, Col.5, lines 34-60).

(E) As per claim 5, Evans discloses wherein the at least one healthcare directive for the patient includes at least one drug medication to be applied to the patient (See Evans, Col.5, lines 34-60; Col.11, lines 15-35).

(F) As per claim 6, Evans discloses wherein the at least one healthcare directive for the patient includes at least one health care procedure to be applied to the patient (See Evans, Col.14, lines 45-67).

(G) As per claim 7, Evans discloses wherein the device responds to the specified at least one healthcare directive by communicating information to the user that constitutes notice that the healthcare directive violates compliance with at least one rule or procedure required for payment approval by a healthcare payer in association with the encounter (See Evans, Col.14, lines 45-67).

(H) As per claim 8, Evans discloses the system wherein the user communicates information to the portable device that constitutes at least a request for the portable device to calculate a visit level classification based upon the at least one diagnosis and the at least one health care directive (See Evans, Col.5, lines 34-60).

(I) As per claim 9, Evans discloses the system discloses wherein the user input mechanism of the portable device includes a voice input mechanism that enables capture and storage of voice information regarding at least one issue associated with the encounter (See Evans, Col.9, lines 1-42).

(J) As per claim 10, Evans discloses the system wherein the user communicates at least one portion of voice information to the device, and where the user communicates information that identifies at least one issue associated with the encounter, and where the user communicates information directing that that at least one portion of voice information be stored in association with the at least one issue (See Evans, Col.9, lines 1-42).

(K) As per claim 11, Tarter discloses the system wherein the user communicates information to the device that constitutes at least a query for identifying remaining actions required for compliance with rules and procedures required for payment

approval by a healthcare payer in association with the encounter (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9).

(L) As per claim 12, Evans discloses the system where in the device responds to the query by communicating at least one prompt to the user, the prompt communicating a directive for performing at least one action, and where the user responds to the at least one prompt by communicating information to the device representing or constituting the performance the at least one action (See Evans, Col.5, lines 60-67 to Col.6, line 14).

(M) As per claim 13, Evans discloses the system where in the system further comprising: a central information facility comprising: a) a computer connected to the portable device via a first communications channel, the computer receiving information generated by the portable device in connection with the encounter (See Evans, Col.13, lines 1-34); b) a data store connected to the computer via a second communications channel, the data store receiving and storing information generated by the portable device in connection with the encounter (See Evans, Col.13, lines 1-34).

(N) As per claim 14, Evans discloses in connection with an encounter between a health care practitioner and a patient, comprising the steps of: a) providing at least one portable device, the portable device for use at a point of patient care by the health care practitioner, the portable device (See Evans, Col.13, lines 1-34) comprising: b) an input mechanism for receiving input from a user at least during the encounter and at the point

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of care (See Evans, Col.6, lines 15-41); and output mechanism for providing output to the user at least during the encounter and at the point of care (See Evans, Col.6, lines 42-67 to Col.7, line 17).

Evans does not explicitly disclose a method for facilitating compliance with rules and procedures required for payment approval from a health care payer and a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for payment approval from the health care payer in connection with the encounter.

However, these features are known in the art, as evidenced by Tarter. In particular, Tarter teaches a system for facilitating compliance with rules and procedures required for payment approval from a health care payer (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9); and a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for payment approval from the health care payer in connection with the encounter (See Tarter, Col.37, lines 26-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Tarter within the system of Evans with the motivation of providing CHARMS to keep track of payments received, and provides the means for the System Operator to aggressively pursue payment when it is not received in a timely manner. Once payment is received, CHARMS reconciles the claims and payments (See Tarter, Col. 10, lines 63-67).



(O) As per claim 15, Evans discloses in connection with an encounter between a health care practitioner and a patient, comprising: a) receiving via a first communications channel, information generated by at least one portable device in connection with the encounter (See Evans, Col.13, lines 1-34); b) storing the information generated by at least one portable device in connection with the encounter (See Evans, Col.13, lines 1-34).

Evans does not explicitly disclose a method for facilitating compliance with rules and procedures required for payment approval from a health care payer.

However, this feature is known in the art, as evidenced by Tarter. In particular, Tarter teaches a system for facilitating compliance with rules and procedures required for payment approval from a health care payer (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Tarter within the system of Evans with the motivation of providing CHARMS to keep track of payments received, and provides the means for the System Operator to aggressively pursue payment when it is not received in a timely manner. Once payment is received, CHARMS reconciles the claims and payments (See Tarter, Col. 10, lines 63-67).

(P) As per claim 16, Evans discloses in connection with an encounter between a health care practitioner and a patient, comprising the steps of: a) providing at least one portable device, the portable device for use at a point of patient care by the health care

practitioner, the portable device (See Evans, Col.13, lines 1-34) comprising: a) a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for payment approval from the health care payer in connection with the encounter; an input mechanism for receiving input from a user at least during the encounter and at the point of care (See Evans, Col.6, lines 15-41); and output mechanism for providing output to the user at least during the encounter and at the point of care (See Evans, Col.6, lines 42-67 to Col.7, line 17); b) receiving via a first communications channel, information generated by at least one portable device in connection with the encounter (See Evans, Col.13, lines 1-34); c) storing the information generated by at least one portable device in connection with the encounter (See Evans, Col.13, lines 1-34).

Evans does not explicitly disclose a method for facilitating compliance with rules and procedures required for payment approval from a health care payer and a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for payment approval from the health care payer in connection with the encounter.

However, these features are known in the art, as evidenced by Tarter. In particular, Tarter teaches a system for facilitating compliance with rules and procedures required for payment approval from a health care payer (See Tarter, Col.6, lines 34-67; Col.11, line 60-67 to Col.12, line 9); and a memory for storing information that facilitates the health care practitioner's compliance with the rules and procedures required for

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payment approval from the health care payer in connection with the encounter (See Tarter, Col.37, lines 26-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Tarter within the system of Evans with the motivation of providing CHARMS to keep track of payments received, and provides the means for the System Operator to aggressively pursue payment when it is not received in a timely manner. Once payment is received, CHARMS reconciles the claims and payments (See Tarter, Col. 10, lines 63-67).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches prescription creation system (5,737,539), system and apparatus for utilization review of medical claims (6,324,516).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F

V.F

June 11, 2005

  
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